

REMARKS

Claims 1 and 3-17 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8 are rejected under 35 U.S.C. § 102(b). Claims 9 and 17 are rejected under 35 U.S.C. § 103(a). Applicants note with appreciation that the Examiner states that claims 10-16 are allowable if rewritten to overcome the 35 U.S.C. § 112, second paragraph rejection. Claim 9 is canceled. Claims 1-3, 10 and 17 are amended. Claims 1-8 and 10-17 are pending.

1. Claim Amendments

Claims 1 and 3 are amended to overcome rejections under 35 U.S.C. § 112, second paragraph. Claim 2, an independent claim, was also amended to add clarity. Claim 10, which the Examiner noted would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, has been amended. Specifically, claim 10 is amended to incorporate the limitations of claim 9 from which it formerly depended, and is now an independent claim. Additionally, Claim 10 is further amended with the additional change that the hinge is no longer recited as being "associated with" the coupling, but now contains a definitive recitation that a part of the hinge is connected with the coupling. Claim 17 is amended to depend from claim 10, rather than claim 9, which is canceled.

2. 35 U.S.C. § 112, second paragraph: Rejection of Claims 1 and 3-17

Claims 1 and 3-17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In order to more clearly point out the claimed subject matter, Applicants amend claims 1 and 3. Specifically, in regard to claim 1, the Examiner stated that the phrase "with the mounting a drive mechanism" is indefinite. Applicants have amended this phrase to add clarity. In regard to claim 3, the Examiner states that the recitation of window sash is indefinite because the window sash is functionally recited. Applicants have amended claim 3 to overcome this rejection, but reciting "a locking arrangement mounted with a window sash. Additionally, claim 3 has been amended to overcome this rejection. It is believed that by virtue

of these amendments, all claims now particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

3. 35 U.S.C. § 102(b): Rejection of Claims 1-8

Claims 1-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,497,135 to Vetter ("Vetter"). According to the Examiner, Vetter teaches a window sash having an opening mechanism. The opening mechanism includes a threaded member 49, a drive mechanism 65, a threaded element 41 and a hinge 35. A locking bar is provided by member 60 shown in Figure 1 of Vetter. The Examiner also states that Vetter further teaches a lost motion device (Vetter, col. 3, line 35 to col. 4, line 40).

In order to anticipate a claim under 35 U.S.C. § 102, a single prior art reference must teach every limitation of the claim. Applicants submit that it was implicit from the wording of claims 1 and 2 that the hinge actually forms part of the window operator. However, to clarify this, the claims have been amended to state that the hinge is mountable to a window frame by the mounting of the window operator and that there is a coupling between the operator and a part of the hinge. This limitation is not disclosed or taught in Vetter.

Applicants submit that Vetter discloses a conventional construction where window sash 11 is mounted to the window frame by a separate piece of hardware, namely a hinge formed by a guide track 31 which runs along guide block 30 and an arm 32 which is pivotally coupled at 33 to the guide track 31 and is coupled at its distal end to the window sash. As can be seen in Figure 3 of Vetter, for example, guide track 31 is mounted by screws (the heads of which are visible) into the window frame, this mounting being independent of the window operator. Therefore, at least for the reasons stated above, there is no teaching in Vetter that the hinge can actually form part of the window operator. Accordingly, Applicants submit that Vetter does not teach every limitation of claims 1 and 2. Dependent claims 2-8 are also, therefore, not anticipated by Vetter. Therefore, withdrawal of the rejection of claims 1-8 under 35 U.S.C. § 102(b) is respectfully requested.

4. 35 U.S.C. § 103(a); Rejection of Claims 9 and 17

The Examiner rejects claims 9 and 17 under 35 U.S.C. § 103(a) as being obvious over Vetter in view of U.S. Patent No. 4,307,542 to Lense ("Lense"). Applicants note that claim 9 is canceled in this amendment and response, and the limitations of claim 9 have been incorporated into claim 10. The Examiner has noted that claim 10 is allowable, provided that the 35 U.S.C. § 112, second paragraph rejections are overcome.

According to the Examiner, although Vetter fails to teach a multi-point lock mechanism, a locking mechanism is taught by Lense, which teaches multi-point (75,76, 77) locking mechanism provided to lock a window connected to a lost motion device. The Examiner states that providing a locking mechanism with "multi-points" fortifies the window in case that one lock fails, the remaining locks keep the window secure. For this reason, according to the Examiner, at the time of Applicant's invention, it would have been obvious to one skilled in the art to provide Vetter with the multi-point locking arrangement of Lense.

In order for a combination of references to render a claim obvious to one skilled in the art, the references must, individually or in combination, teach or suggest every limitation of the claim, and there must be a motivation or suggestion to combine the references. Applicants' amended claim 10, which incorporates the limitations of claim 9, and claim 17, which depends from claim 10, recite a hinge for mounting the sash in the frame being formed at least in part with the operator and mountable to the frame by way of the operator mounting. Applicants submit that Lense simply shows an arrangement of mounting the sash in a frame by a hinge which is a separate element to any operating mechanism. When considering Lense, Vetter, or a combination of these two references, Applicants are unable to find a teaching or suggestion of a hinge for mounting the sash in the frame being formed at least in part with the operator and mountable to the frame by way of the operator mounting. In light of Applicants amendments to claim 10, from which claim 17 depends, if the Examiner insists on maintaining this rejection, it is requested that the Examiner specifically point out how Lense and Vetter teach or suggest a hinge forming

part of the window operator. Thus, these references and combinations thereof do not teach every limitation of the claimed invention.

Accordingly, at least for the reason stated above, Applicants submit that Vetter in view of Lense does not render obvious claim 17, or amended claim 10. Therefore, withdrawal of the rejection of claim 17 under 35 U.S.C. § 103(a) is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that all claims now pending are in proper form, are not anticipated by the relied upon art of record, and are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: November 21, 2001

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Enclosures: Mark-Up Version Showing Changes to the Claims

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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231, on November 21, 2001

Marilyn Bass

November 21, 2001

MARK UP VERSION SHOWING AMENDMENTS TO CLAIMS

The claims are amended as follows:

1. (once amended) A window operator including a mounting means, an elongate threaded member mounted with the mounting, a drive mechanism to apply a rotational movement to the elongate threaded member, a threaded element located on the elongate threaded member, a hinge with which a window sash, said hinge being mountable to a window frame by the mounting, can be mounted and a coupling moveable in response to movement of the threaded element on the elongate threaded member ~~the hinge being associated with~~ a part of the hinge being connected to the coupling such that movement of the coupling results in movement of the hinge.

2. (once amended) A window operator including a mounting means and drive transfer mountable in a cavity formed between a window sash and window frame when the window sash is in the closed position such that the mounting and drive transfer are not visible when the sash is in the closed position, an operator handle and handle mounting mountable to a surface of the window frame, the operator handle being coupled to the drive transfer and the drive transfer being drivingly coupled to an elongate threaded member mounted with the mounting, a threaded element located on the elongate threaded member being connected by a coupling to a hinge engageable with the window sash and mountable to the window frame by said mounting.

3. (once amended) A window operator as claimed in claim 1, further including a lost motion mechanism between the threaded element and the coupling, and an engagement device for in use engaging with a locking arrangement mounted with ~~the~~ a window sash, the engagement device being movable by said lost motion mechanism to apply a locking action to the locking arrangement.

9. (delete)

10. (once amended) ~~The combination of claim 9 wherein the~~ A window operator in combination with a multi-point lock mechanism, the lock mechanism includes including a first lock element, the first lock element having an engagement member, the window operator including a mounting, an elongate threaded member mounted with the mounting, a drive mechanism to apply a rotational movement to the elongate threaded member, a threaded element located on the elongate

threaded member, a hinge with which a window sash can be mounted, a coupling moveable in response to movement of the threaded element on the elongate threaded member, the said coupling having a driver which upon engagement with the engagement member imparts movement to the first lock element, a lost motion mechanism between the threaded element and the coupling, said engagement member being movable by said loss motion mechanism, and part of the hinge being connected to the coupling such that movement of the coupling results in movement of the hinge.

17. (once amended) The combination of claim 910 wherein the lost motion coupling is formed by a toggle mechanism and a trigger element mountable with a part of a window construction to induce toggling of the toggle mechanism.